

AMENDED IN SENATE APRIL 29, 2014

SENATE BILL

No. 1390

Introduced by Senator Correa

February 21, 2014

An act to add ~~Division 23.6 (commencing with Section 33807) Chapter 4.6 (commencing with Section 31170) to Division 21 of the Public Resources Code, relating to the Santa Ana River Conservancy. Conservancy Program.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as amended, Correa. Santa Ana River ~~Conservancy. Conservancy Program.~~

~~Existing law authorizes various conservancies to acquire, manage, direct the management of, and conserve public lands in the state.~~

Existing law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing and administering various programs intended to preserve, protect, and restore the state's coastal areas.

This bill would establish the Santa Ana River Conservancy *Program, to be administered by the conservancy*, to acquire specified lands within ½ mile, *or greater as provided*, on either side of the riverbed of the Santa Ana River and would prescribe the management, powers, and duties of the conservancy *for purposes of the program*. The bill would also create the Santa Ana River Conservancy Fund, but would prohibit the conservancy from implementing the funding authorization until the Legislature appropriates, from other than General Fund moneys, or a bond act approved by the voters allocates, the necessary funds. *Program Account in the State Coastal Conservancy Fund and would authorize the conservancy to expend moneys in the account, upon appropriation,*

for land acquisition, capital improvements, and support of the program's operations.

The bill would require the conservancy, by January 1, 2016, and annually thereafter, to submit a report to the Governor and the Legislature on progress made to further the purposes of the conservancy program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Division 23.6 (commencing with Section 33807)~~
~~is added to the Public Resources Code, to read:~~

~~DIVISION 23.6. SANTA ANA RIVER CONSERVANCY~~

~~CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS~~

~~33807.—~~

SECTION 1. Chapter 4.6 (commencing with Section 31170)
is added to Division 21 of the Public Resources Code, to read:

CHAPTER 4.6. SANTA ANA RIVER CONSERVANCY PROGRAM

Article 1. General Provisions and Definitions

31170. This division chapter shall be known, and may be cited,
as the Santa Ana River Conservancy Program Act.

~~33808.~~

31171. (a) The Santa Ana River is the largest stream system
in southern California, covering an area of about 2,700 square
miles in parts of Orange, San Bernardino, Riverside, and Los
Angeles Counties.

(b) The Santa Ana River region is home to one of the fastest
growing populations in the nation, which is expected to grow from
its current five million residents to ten million residents by 2050.

(c) Not all Orange County residents have equal access to green
space. The communities with the worst access to parks lie along
the river in north Orange County, with low-income levels and high
concentrations of people of color.

(d) Despite vast areas of parkland, many communities in San Bernardino and Riverside Counties are park poor, with less than three acres of green space per 1,000 residents. This is particularly true in the communities that were built out before the development boom of the past few decades. As more working class families moved to the area in search of jobs, the population in these older neighborhoods swelled but public resources for parks and recreation were not invested proportionally to the growth.

(e) Portions of the Santa Ana River are considered polluted by the United States Environmental Protection Agency. Pollutants include lead and copper from discarded vehicle brake pads, and bacteria from leaking sewers and septic tanks. Pollutants travel the length of the river, exposing nearby communities to harmful chemicals and toxins.

(f) The Santa Ana River is an extraordinary natural resource of statewide significance. The river has been subject to intense development and is in need of restoration, conservation, and enhancement.

(g) The creation of the Santa Ana River Conservancy *Program* will provide the state the necessary structure to plan restoration and preservation projects and recreation opportunities, and enhance the overall condition of the Santa Ana River.

~~33809.~~

~~31172.~~ For purposes of this ~~division~~ *chapter*, the following terms have the following meanings:

(a) ~~“Board” means the governing board of the Santa Ana River Conservancy.~~

~~(b)~~

(a) “Conservancy” means the ~~Santa Ana River State Coastal~~ Conservancy.

~~(c) “Conservancy lands” means lands owned by the conservancy.~~

~~(d)~~

(b) “Control” means possession, direct or indirect, of the power to direct or cause the direction of management and policies.

~~(e)~~

(c) “Nonprofit organization” means a nonprofit public benefit corporation that is formed pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), qualified to do business in California, and qualified under Section 501(c)(3) of Title 26 of the United States

Code, and that has among its primary purposes the preservation, protection, or enhancement of land or water resources in their natural, scenic, historical, agricultural, forested, or open-space condition or use.

(d) “Program” means the Santa Ana River Conservancy Program.

(e) “Program lands” means lands owned or managed by the conservancy as part of the Santa Ana River Conservancy Program.

(f) “Territory” means those lands that are located within one-half mile, or greater distance pursuant to paragraph (2) of subdivision (a) of Section 31173, on either side of the riverbed of the Santa Ana River, or any of its tributaries, from its headwaters near the San Gorgonio Wilderness Area to the Pacific Ocean at the Santa Ana River Mouth Beach in Huntington Beach.

~~CHAPTER 2. THE SANTA ANA RIVER CONSERVANCY~~

~~33815. There is in the Resources Agency, the~~

Article 2. The Santa Ana River Conservancy Program

~~31173. The Santa Ana River Conservancy, which is created as a state agency for the following Conservancy Program is established pursuant to this chapter, to be administered by the conservancy, to address the resource and recreational goals of the Santa Ana River corridor as identified in this chapter. The program shall have all of purposes:~~

(a) (1) To acquire lands that are located within one-half mile on either side of the riverbed of the Santa Ana River, to manage ~~conservancy~~ program lands, and to provide recreational opportunities, open space, trails, wildlife habitat and species restoration and protection, wetland restoration and protection, agricultural land restoration and protection, protection and maintenance of the quality of the waters in the Santa Ana River for all beneficial uses, lands for educational uses within the area, and natural floodwater conveyance.

(2) Lands that are located more than one-half mile on either side of the riverbed of the Santa Ana River may be acquired if the acquisition is expressly authorized in a written agreement by and

1 *between the conservancy and the local government whose*
2 *jurisdiction contains the affected lands.*

3 (b) To provide for the public's enjoyment, and to enhance the
4 recreational and educational experience on ~~conservancy~~ *program*
5 lands in a manner consistent with the protection of land and natural
6 resources, and economic resources in the area.

7 ~~33820.~~

8 *31174.* The conservancy, *in administering the program*, shall
9 do all of the following:

10 (a) Establish policies and priorities ~~for the conservancy~~ regarding
11 the Santa Ana River, and conduct necessary planning activities,
12 in accordance with the purposes set forth in Section ~~33815~~ *31173*.

13 (b) Give priority to river-related projects that create expanded
14 opportunities for recreation, greening, aesthetic improvement, and
15 wildlife habitat along the corridor of the river and in parts of the
16 river channel that can be improved for the purposes set forth in
17 Section ~~33815~~ *31173* without infringing on water quality, water
18 supply, and necessary flood control.

19 (c) Approve conservancy-funded projects that advance the
20 purposes set forth in Section ~~33815~~ *31173*.

21 (d) Prepare a Santa Ana River Parkway and Open Space Plan,
22 that shall accomplish, at a minimum, all of the following:

23 (1) Determine the policies and priorities for conserving the Santa
24 Ana River and its watershed in accordance with the purposes of
25 the ~~conservancy program~~ set forth in Section ~~33815~~ *31173*.

26 (2) Identify underused, existing public open spaces and
27 recommend ways to provide better public use and enjoyment in
28 those areas. However, the conservancy shall not manage, regulate,
29 or control the use of any land ~~owned, leased, or otherwise used~~
30 *owned or leased* by another public agency, *except as provided*
31 *pursuant to a written agreement with that public agency*.

32 (3) Identify and prioritize additional low-impact recreational
33 and open-space needs, including additional or upgraded facilities
34 and parks that may be necessary or desirable.

35 ~~33825.~~ The board shall consist of 13 voting members appointed
36 as follows:

37 ~~(a) Secretary of the Resources Agency, or his or her designee.~~

38 ~~(b) Director of Finance, or his or her designee.~~

39 ~~(c) One public member appointed by the Governor, from a list~~
40 ~~submitted by local, state, and national environmental organizations~~

1 ~~that operate within the territory and that have participated in~~
2 ~~planning for river restoration, river preservation, open space, or~~
3 ~~water quality.~~

4 ~~(d) Three public members appointed by the Governor, who have~~
5 ~~expertise in economic development, agriculture, or conservation,~~
6 ~~wildlife, and natural resources.~~

7 ~~(e) One member of the Board of Supervisors of Riverside~~
8 ~~County appointed by the majority of the members of that board,~~
9 ~~or the general manager of the Riverside County Regional Parks~~
10 ~~and Open Space District.~~

11 ~~(f) One member of the Board of Supervisors of San Bernardino~~
12 ~~County appointed by the majority of the members of that board,~~
13 ~~or the chief of the San Bernardino County Regional Parks Division.~~

14 ~~(g) One member of the Board of Supervisors of Orange County~~
15 ~~appointed by the majority of the members of that board, or the~~
16 ~~director of the Orange County Public Facilities and Resources~~
17 ~~Department.~~

18 ~~(h) One member of the Santa Ana River Watershed Project~~
19 ~~Authority, appointed by the majority of the members of that~~
20 ~~authority.~~

21 ~~(i) One public member appointed by the Senate Committee on~~
22 ~~Rules.~~

23 ~~(j) One public member appointed by the Speaker of the~~
24 ~~Assembly.~~

25 ~~(k) One representative designated by the Governing Councils~~
26 ~~of the San Manuel Band of Mission Indians and the Soboba Band~~
27 ~~of Luiseno Indians.~~

28 33826. ~~(a) The term of each member of the board, except the~~
29 ~~Secretary of the Resources Agency, or his or her designee, and the~~
30 ~~Director of Finance, or his or her designee, shall be two years, or~~
31 ~~until the member's successor is appointed, whichever is longer. A~~
32 ~~vacancy shall be filled within 60 days of its occurrence by the~~
33 ~~appointing authority.~~

34 ~~(b) Notwithstanding subdivision (a), a person shall not continue~~
35 ~~as a member of the board if he or she ceases to hold the office that~~
36 ~~qualifies him or her to be appointed as a member of the board. The~~
37 ~~membership on the board held by the person shall terminate if the~~
38 ~~person ceases to hold the qualifying office or membership.~~

1 ~~(e) The members of the board shall elect a chairperson, vice~~
2 ~~chairperson, and other officers, as necessary, from among the board~~
3 ~~members. The board shall determine the terms of those offices.~~

4 ~~(d) A member of the board who is not a full-time public~~
5 ~~employee shall be compensated at a rate not to exceed one hundred~~
6 ~~dollars (\$100) per regular meeting, not to exceed 12 regular~~
7 ~~meetings per year, and shall be reimbursed the actual and necessary~~
8 ~~expenses incurred in the performance of his or her duties. A~~
9 ~~member may waive compensation.~~

10 ~~(e) The conservancy shall employ an executive officer and other~~
11 ~~necessary staff, and may enter into a contract for services requiring~~
12 ~~knowledge, experience, and ability not possessed by the~~
13 ~~conservancy staff. Those contracts shall be subject to board~~
14 ~~approval.~~

15 ~~(f) (1) The board~~

16 *31175. (a) The conservancy shall create an advisory group*
17 *and may create ad hoc panels. The board conservancy shall*
18 *determine the size and composition of membership, candidate*
19 *qualifications, and the selection process for an advisory group or*
20 *ad hoc panel.*

21 ~~(2)~~

22 *(b) Members of the advisory group or ad hoc panels may offer*
23 *advice, expertise, support, or service to the conservancy, without*
24 *compensation.*

25 ~~(3) The board~~

26 *(c) The conservancy may establish operational guidelines for*
27 *the advisory group or ad hoc panels.*

28 ~~(4)~~

29 *(d) A donation of funds secured through activities of the*
30 *advisory group or ad hoc panels shall be deposited in the Santa*
31 *Ana River Conservancy Fund Program Account.*

32 ~~(5)~~

33 *(e) All reports, statements, or advice issued by the advisory*
34 *group or ad hoc panels may be received and filed, implemented,*
35 *or rejected by the board conservancy.*

36 ~~33830. (a) A quorum shall consist of a majority of the members~~
37 ~~of the board. All meetings of the board shall be held in accordance~~
38 ~~with the Bagley-Keene Open Meeting Act (Article 9 (commencing~~
39 ~~with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title~~
40 ~~2 of the Government Code).~~

1 ~~(b) An action of the board affecting a matter shall be taken by~~
2 ~~a majority vote of the membership of the board, a quorum being~~
3 ~~present.~~

4 ~~(c) The board shall adopt rules and procedures necessary to~~
5 ~~conduct its business.~~

6 ~~(d) The board shall meet to conduct official business of the~~
7 ~~conservancy only at locations within the territory.~~

8
9 CHAPTER 3. POWERS AND DUTIES

10
11 33840.—

12
13 *Article 3. Powers and Duties*

14
15 31176. (a) The conservancy shall manage, operate, administer,
16 and maintain the ~~conservancy program~~ lands and facilities in
17 accordance with the purposes set forth in Section ~~33815~~ 31173.

18 (b) The conservancy may adopt regulations governing public
19 use of ~~conservancy program~~ lands and facilities and may provide
20 for the enforcement of those regulations.

21 (c) The conservancy may fix and collect fees for the use of any
22 land owned or controlled, or for any service provided, by the
23 conservancy. The amount of the fees ~~may~~ shall not exceed the
24 reasonable cost of maintaining and operating the land or providing
25 the services rendered by the conservancy.

26 33841.

27 31177. (a) The conservancy may acquire real property or an
28 interest in real property pursuant to the Property Acquisition Law
29 (Part 11 (commencing with Section 15850) of Division 3 of Title
30 2 of the Government Code) within the territory from willing sellers
31 and at a price that shall not to exceed fair market value, upon a
32 finding that the acquisition is consistent with the purposes of the
33 ~~conservancy program~~ as set forth in Section ~~33815~~ 31173. The
34 conservancy may acquire the property itself or may coordinate the
35 acquisition through other public agencies or nonprofit organizations
36 that have the authority to acquire property and that have available
37 funding or land to exchange. The conservancy may hold a
38 remainder interest in property in those instances in which an owner
39 desires to sell the property and retain a life estate, ~~and may create~~
40 ~~and administer a mitigation land bank~~ and arrange land exchanges,

consistent with the purposes set forth in Section ~~33815~~ 31173. The overall objective of the land acquisition program shall be to assist in accomplishing land transactions that are mutually beneficial to the landowner and the conservancy, and that meet the conservancy's program's purposes.

(b) To the extent not in conflict with another law, the conservancy may exercise the right of first refusal for surplus public agency property located within the territory for the purposes of the ~~conservancy program~~, as set forth in Section ~~33815~~ 31173, subject to the conditions and provisions of the adopted Santa Ana River Parkway and Open Space Plan, and Plan. The program shall conform to all relevant general and specific plans and zoning regulations of local agencies within the territory.

(c) Prior to entering into an agreement to acquire an interest in real property, or to lease, rent, sell, exchange, or transfer real property or an interest therein or an option acquired under this ~~division chapter~~, within the territory for open space or conservation purposes, the conservancy shall provide 30 days' written notice to the legislative body of the affected local agency, if that project was not included in the Santa Ana River Parkway and Open Space Plan. agency.

(d) The conservancy may apply for grants from any source to be used for the purposes of this ~~division chapter~~. The proceeds of the grants shall be deposited in the Santa Ana River Conservancy Fund, Program Account, as specified in Section ~~33845~~ 31181.

~~33842.~~

31178. (a) The conservancy shall have, and may exercise, all rights and powers, expressed or implied, necessary to carry out the purposes of this ~~division chapter~~, except as otherwise provided.

(b) The conservancy ~~may~~ shall not levy a tax.

(c) The conservancy ~~may~~ shall not regulate land use, except on lands it owns, manages, or controls.

(d) The conservancy does not have the power of eminent domain.

(e) The conservancy shall be subject to all laws, regulations, and general and specific plans of the legislative body of the local agency that has jurisdiction in the area in which the conservancy proposes to take action.

~~33843. The~~

1 31179. *For purposes of this chapter, the conservancy may do*
2 all of the following:

3 (a) Sue and be sued.

4 (b) Enter into contracts with a public agency, private entity, or
5 person necessary for the proper discharge of the conservancy's
6 duties, and enter into a joint powers agreement with a public
7 agency, in furtherance of the purposes set forth in Section ~~33815~~
8 *31173*.

9 (c) Lease, rent, sell, exchange, or transfer real property or an
10 interest in real property or an option acquired under this ~~division~~
11 *chapter* to a local public agency, state agency, federal agency,
12 nonprofit organization, individual, or other entity pursuant to terms
13 and conditions approved by the conservancy for management
14 purposes, in accordance with the purposes set forth in Section
15 ~~33815~~ *31173*.

16 (d) Initiate, negotiate, and participate in an agreement for the
17 management of ~~conservancy~~ *program* lands by a local public
18 agency, state agency, federal agency, nonprofit organization,
19 individual, or other entity, and initiate, negotiate, and participate
20 in an agreement for the management of land under the ownership
21 or control of those entities by the conservancy, in accordance with
22 the purposes set forth in Section ~~33815~~ *31173*.

23 (e) Enter into an agreement with a public agency, private entity,
24 or person necessary for the proper discharge of the conservancy's
25 duties for the purposes set forth in Section ~~33815~~ *31173*.

26 (f) Recruit and coordinate volunteers and experts to conduct
27 interpretive and recreational programs and assist with construction
28 projects and the maintenance of parkway facilities. To the extent
29 feasible, in carrying out the purposes of this ~~division~~ *chapter*, the
30 conservancy shall utilize the services of the California Conservation
31 Corps and Community Conservation Corps, as defined in Section
32 14507.5, and if the California Conservation Corps or Community
33 Conservation Corps are not available, any other nonprofit
34 organization that the conservancy determines has relevant and
35 demonstrated capacity and expertise.

36 (g) Undertake, within ~~conservancy~~ *program* lands, site
37 improvement projects, regulate public access, and revegetate and
38 rehabilitate degraded areas, in consultation with any other public
39 agency with appropriate jurisdiction and expertise, in accordance
40 with the purposes set forth in Section ~~33815~~ *31173*. The

1 conservancy may also, within ~~conservancy~~ *program* lands, upgrade
2 deteriorating facilities and construct new facilities as needed for
3 outdoor recreation, nature appreciation and interpretation, historic
4 and cultural preservation, and natural resources protection. The
5 conservancy may undertake those projects by itself or in
6 conjunction with another local agency; however, the conservancy
7 shall provide overall coordination of those projects by setting
8 priorities for the projects and by ensuring a uniform approach to
9 projects. The conservancy may undertake those projects after 30
10 days' written notice to the legislative body of the local agency that
11 has jurisdiction in the area in which the conservancy proposes to
12 undertake that activity.

13 ~~33844.~~

14 *31180.* (a) The conservancy may award grants or interest-free
15 loans to local public and state agencies for purposes of this ~~division~~
16 *chapter*.

17 (b) The conservancy may award grants to nonprofit
18 organizations for the acquisition of real property or interests in
19 real property, within the territory, which shall be subject to all of
20 the following conditions:

21 (1) The purchase price of an interest in land acquired by the
22 nonprofit organization ~~may~~ *shall* not exceed fair market value as
23 established by an appraisal approved by the conservancy.

24 (2) The conservancy approves the terms under which the interest
25 in land is acquired.

26 (3) The interest in land acquired pursuant to a grant from the
27 conservancy ~~may~~ *shall* not be used as security for a debt incurred
28 by the nonprofit organization unless the conservancy approves the
29 transaction.

30 (4) The transfer of land acquired pursuant to a grant shall be
31 subject to the approval of the conservancy and the execution of an
32 agreement between the conservancy and the transferee sufficient
33 to protect the interests of the state.

34 (5) The state shall have a right of entry and power of termination
35 in and over all interests in real property acquired with state funds,
36 that may be exercised if an essential term or condition of the grant
37 is violated.

38 (6) If the existence of the nonprofit organization is terminated,
39 title to all interests in real property acquired with state funds shall
40 immediately vest in the state, except that, prior to that termination,

1 another public agency or nonprofit organization may receive title
2 to all or a portion of that interest in real property, by recording its
3 acceptance of title, together with the conservancy's approval, in
4 writing.

5 (c) A deed or other instrument of conveyance whereby real
6 property is acquired by a nonprofit organization pursuant to this
7 section shall be recorded and shall set forth the executory interest
8 or right of entry on the part of the state.

9 ~~33845.~~

10 ~~31181.~~ (a) The Santa Ana River Conservancy ~~Fund Program~~
11 ~~Account~~ is hereby created in the State ~~Treasury~~. ~~Coastal~~
12 ~~Conservancy Fund~~. Moneys in the ~~fund~~ account shall be available,
13 upon appropriation, for the purposes of this ~~division~~. ~~chapter~~.

14 (b) The fee revenue and all other revenue received pursuant to
15 this ~~division~~ ~~chapter~~ shall be deposited in the ~~fund~~. ~~account~~.

16 (c) The conservancy shall administer funds appropriated to it
17 ~~for the program~~ and may expend those funds for capital
18 improvements, land acquisition, ~~or~~ and support of the
19 ~~conservancy's program's~~ operations, in accordance with the
20 purposes set forth in Section ~~33815~~ 31173. The conservancy may
21 also accept revenue, money, grants, goods, or services contributed
22 to it by a public agency, private entity, or person and, upon receipt,
23 may use the revenue, money, grants, goods, or services for capital
24 improvements, land acquisitions, ~~or~~ and support of the
25 ~~conservancy's program's~~ operations, in accordance with the
26 purposes set forth in Section ~~33815~~ 31173.

27 ~~33846.~~

28 31182. (a) On or before January 1, 2016, and, notwithstanding
29 Section 10231.5 of the Government Code, on or before January 1
30 annually thereafter, the conservancy shall submit a report to the
31 Governor and the Legislature on progress made to further the
32 purposes of this ~~division~~ ~~chapter~~. The report shall include, but is
33 not limited to, a list of projects undertaken, grants and loans
34 acquired and awarded, a schedule of prioritized projects for the
35 next year, and identification of future funding sources.

36 (b) A report submitted to the Legislature pursuant to subdivision
37 (a) shall be submitted in compliance with Section 9795 of the
38 Government Code.

39 ~~33847.~~ (a) ~~The conservancy may not implement Section 33845~~
40 ~~until the Legislature appropriates funds necessary to implement~~

1 ~~this division, or until a bond act approved by the voters of this~~
2 ~~state includes an allocation of funds for the purposes of this~~
3 ~~division.~~

4 (b) ~~The Legislature shall not appropriate General Fund moneys~~
5 ~~to implement this division.~~

6

7

8 CORRECTIONS:

9 Text—Page 4.

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